

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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SAMUEL TROICE, HORACIO MENDEZ, :  
ANNALISA MENDEZ, and :  
PUNGA PUNGA FINANCIAL, LTD., :  
individually and on behalf of all others similarly :  
situated, :  
: Plaintiffs, : Civil Action No. 3:09-cv-01600-N  
: - against - :  
: **ORAL ARGUMENT**  
: **REQUESTED**  
: PROSKAUER ROSE LLP, :  
: THOMAS V. SJOBLOM, :  
: P. MAURICIO ALVARADO, and :  
: CHADBOURNE & PARKE LLP, :  
: Defendants. :  
: - - - - - x

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**DEFENDANTS PROSKAUER ROSE LLP AND THOMAS V. SJOBLOM'S RULE  
59(e) MOTION FOR RECONSIDERATION AND JOINDER IN DEFENDANT  
CHADBOURNE & PARKE LLP'S MOTION TO ALTER OR AMEND**

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Defendants Proskauer Rose LLP (“Proskauer”) and Thomas V. Sjoblom hereby move pursuant to Federal Rule of Civil Procedure 59(e) for reconsideration of the Court’s ruling denying Proskauer’s and Sjoblom’s motions to dismiss and join in the Motion to Alter or Amend, ECF No. 186 (the “Motion”) filed by defendant Chadbourne & Parke LLP (“Chadbourne”).

For the reasons stated in the Motion and in the other briefing in support of Proskauer’s and Sjoblom’s motions to dismiss plaintiffs’ second amended complaint (the “prior briefing”),<sup>1</sup> Proskauer and Sjoblom are immune from suit under the doctrine of

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<sup>1</sup> See Proskauer’s Mot. to Dismiss and Br. in Supp. of its Mot. to Dismiss Pls.’ Second Am. Class Action Compl., ECF No. 31; Def. Thomas V. Sjoblom’s Mot. to Dismiss Pls.’ Second Am. Class Action

attorney qualified immunity because plaintiffs seek to hold them accountable for the conduct of a lawyer representing his client in an adversarial proceeding. Specifically, Proskauer, through Sjoblom, is alleged to have engaged in wrongdoing while representing Stanford Financial in a formal SEC investigation by (i) consulting with Stanford Financial's general counsel on responses to regulators' requests for information (Pls.' Second Am. Class Action Compl. ¶ 67), (ii) responding to SEC investigatory subpoenas (*id.* ¶¶ 63, 68, 73-76), (iii) preparing witnesses to present testimony before the SEC (*id.* ¶¶ 77-78, 80-82), and (iv) meeting with SEC attorneys to discuss the identities of witnesses and the dates of their testimony (*id.* ¶¶ 75-76). As set forth in the prior briefing, such actions plainly require "the office, professional training, skill, and authority of an attorney," FinServ Cas. Corp. v. Settlement Funding, LLC, 724 F. Supp. 2d 662, 671 (S.D. Tex. 2010) (internal quotation marks omitted), and Proskauer and Sjoblom therefore cannot be subjected to suit based on them.

The cases identified in the Motion further confirm that Texas law affords attorneys who perform such functions an immunity from suit regardless of whether their conduct is wrongful. A contrary rule would contravene Texas's policy of protecting attorneys from suit by third parties based on their litigation conduct. See Dixon Fin. Servs., Ltd. v. Greenberg, Peden, Siegmyer & Oshman, P.C., No. 01-06-00696-CV, 2008 WL 746548, at \*7 (Tex. App.—Houston [1st Dist.] Mar. 20, 2008, pet. denied) (mem. op. on reh'g) (expressing concern that attorneys should not have to "constantly . . . balance

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Compl., ECF No. 36; Proskauer's Reply Br. in Further Supp. of its Mot. to Dismiss Pls.' Second Am. Class Action Compl., ECF No. 64; Def. Thomas V. Sjoblom's Reply Br. in Further Supp. of His Mot. to Dismiss Pls.' Second Am. Class Action Compl., ECF No. 65; Defs. Mot. for Leave to File Notice of Supplemental Authority in Further Supp. of Their Mots. to Dismiss Pls.' Second Am. Class Action Compl., ECF No. 134; Defs. Proskauer, Chadbourne, and Thomas V. Sjoblom's Resp. to Pls.' Supplemental Briefing in Resp. and Opp'n to Defs.' Mots. to Dismiss Pls.' Second Am. Compl., ECF No. 147.

[their] own potential exposure against [their] client's best interest"). Accordingly, Proskauer and Sjoblom should not be forced to answer to plaintiffs for claims based on Sjoblom's litigation conduct. That result is particularly appropriate here because James Davis, Stanford Financial's CFO and one of the masterminds of Stanford's fraud, has testified under oath that the true nature of Stanford's operations was concealed from Sjoblom until shortly before Proskauer and Sjoblom withdrew from representing Stanford, and Sjoblom disavowed his prior representations to regulators. (See App. 120, Davis Trial Tr. vol. 11, 3259:8-12, Feb. 6, 2012 (testifying that prior to February 2009, Mr. Sjoblom and others had "been led to believe" that the assets in Tier 3 "were the same style[] and content of what was in Tier 2"); id. at 139-40, Davis Trial Tr. vol. 11, 3278:8-12 (testifying that Mr. Sjoblom and others did not know that Stanford Financial's assets "weren't worth what [Stanford and Davis] said they were . . . worth").)

For the foregoing reasons and those set forth in the Motion and the prior briefing, Proskauer and Sjoblom respectfully submit that this Court should alter or amend its ruling denying their motions to dismiss pursuant to Federal Rule of Civil Procedure 59(e), and enter a new order dismissing plaintiffs' claims against Proskauer and Sjoblom.

Dated: April 1, 2015

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 1, 2015, I caused the foregoing document to be served on counsel of record for all parties of record via electronic mail or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ James P. Rouhandeh